

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 * * *

9
10 INFINITE MASTER MAGNETIC, aka
11 JESSE JEROME POINTER,

12 Plaintiff,

13 v.

14 STATE OF NEVADA, *et al*,

15 Defendants.

Case No. 2:16-cv-00640-MMD-PAL

ORDER ACCEPTING REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE
PEGGY A. LEEN

16 Before the Court is the Report and Recommendation of United States Magistrate
17 Judge Peggy A. Leen (ECF No. 8) ("R&R") relating to plaintiff's failure to comply with the
18 court's order giving Plaintiff until April 29, 2016, to file an Application to Proceed *in*
19 *Forma Pauperis* or pay the filing fee of \$400.00. (ECF No. 7.) Plaintiff was advised that a
20 failure to comply with that order would result in a recommendation to dismiss this action.
21 (*Id.*) As of this date, Plaintiff has not complied with the court's order, and Magistrate
22 Judge Leen submitted her R&R on May 10, 2016. (ECF No. 8.) Plaintiff had until May 27,
23 2016, to object to the R&R. (*Id.*) To date, no objection to the R&R has been filed.

24 This Court "may accept, reject, or modify, in whole or in part, the findings or
25 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
26 timely objects to a magistrate judge's report and recommendation, then the court is
27 required to "make a *de novo* determination of those portions of the [report and
28 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails

1 to object, however, the court is not required to conduct “any review at all . . . of any issue
2 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
3 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
4 magistrate judge’s report and recommendation where no objections have been filed. See
5 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
6 of review employed by the district court when reviewing a report and recommendation to
7 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
8 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the
9 view that district courts are not required to review “any issue that is not the subject of an
10 objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then
11 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
12 Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation to
13 which no objection was filed).


14 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
15 determine whether to adopt Magistrate Judge Leen’s R&R. Upon reviewing the R&R and
16 records in this case, this Court finds good cause to adopt the Magistrate Judge’s R&R in
17 full.

18 It is therefore ordered, adjudged and decreed that the Report and
19 Recommendation of Magistrate Judge Peggy A. Leen (ECF No. 8) is accepted and
20 adopted in its entirety.

21 It is further ordered that this action is dismissed without prejudice to the Plaintiff’s
22 ability to commence a new action in which he either pays the appropriate filing fee in full
23 or submits a completed application to proceed *in forma pauperis*.

24 It is further ordered that the Clerk of the Court close this case and enter judgment
25 accordingly.

26 DATED THIS 23rd day of October 2017.

27 
28 _____
MIRANDA M. DU
UNITED STATES DISTRICT JUDGE